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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

**[EPA-R04-OAR-2010-1036-201161; FRL-9507-1]**

**Approval and Promulgation of Implementation Plans and Designations of Areas for Air Quality Planning Purposes; Georgia; Atlanta; Determination of Attainment by Applicable Attainment Date for the 1997 8-Hour Ozone Standards**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to determine pursuant to the Clean Air Act (CAA), that the Atlanta, Georgia, ozone nonattainment area (hereafter referred to as “the Atlanta Area” or “the Area”) has attained the 1997 8-hour ozone national ambient air quality standards (NAAQS) *by its applicable attainment date of June 15, 2011*. A determination of attainment was made by EPA on June 23, 2011, based on quality-assured and certified monitoring data for the 2008 – 2010 monitoring period. EPA is now proposing to find that the Atlanta Area attained the 1997 8-hour ozone NAAQS *by its applicable attainment date*. EPA is proposing this action because it is consistent with the CAA and its implementing regulations.

**DATES:** Comments must be received on or before [insert date 30 days after date of publication in the Federal Register].

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R04-OAR-2010-1036, by one of the following methods:

1. [www.regulations.gov](http://www.regulations.gov): Follow the on-line instructions for submitting comments.
2. E-mail: [benjamin.lynorae@epa.gov](mailto:benjamin.lynorae@epa.gov).
3. Fax: (404) 562-9019.
4. Mail: EPA-R04-OAR-2010-1036, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960.
5. Hand Delivery or Courier: Ms. Lynorae Benjamin, Chief, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding Federal holidays.

*Instructions:* Direct your comments to Docket ID No. "EPA-R04-OAR-2010-1036." EPA's policy is that all comments received will be included in the public docket without change and may be made available online at [www.regulations.gov](http://www.regulations.gov), including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through [www.regulations.gov](http://www.regulations.gov) or e-mail, information that you consider to be CBI or otherwise protected. The [www.regulations.gov](http://www.regulations.gov) website is an "anonymous access" system, which means

EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through [www.regulations.gov](http://www.regulations.gov), your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>.

*Docket:* All documents in the electronic docket are listed in the [www.regulations.gov](http://www.regulations.gov) index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in [www.regulations.gov](http://www.regulations.gov) or in hard copy at the Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to

4:30, excluding Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** For information regarding this attainment determination, contact Mr. Sean Lakeman, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. Telephone number: (404) 562-9043; e-mail address: [lakeman.sean@epa.gov](mailto:lakeman.sean@epa.gov). For information regarding 8-hour ozone NAAQS, contact Ms. Jane Spann, Regulatory Development Section, at the same address above. Telephone number: (404) 562-9029; e-mail address: [spann.jane@epa.gov](mailto:spann.jane@epa.gov).

**SUPPLEMENTARY INFORMATION:**

- I. What Action is EPA Taking?**
- II. What is the Background for This Action?**
- III. What is the Air Quality in the Atlanta Area for the 1997 8-Hour Ozone NAAQS for the 2008-2010 Monitoring Period?**
- IV. What is the Proposed Action and What is the Effect of This Action?**
- V. Statutory and Executive Order Reviews**

**I. What Action is EPA Taking?**

Based on EPA's review of the quality-assured and certified monitoring data for 2008 – 2010, and in accordance with section 179(c)(1) of the CAA and EPA's regulations, EPA proposes to determine that the Atlanta Area has attained the 1997 8-hour ozone NAAQS *by the*

*applicable attainment date of June 15, 2011.*<sup>1</sup> The Atlanta Area is comprised of Barrow, Bartow, Carroll, Cherokee, Clayton, Cobb, Coweta, Dekalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Hall, Henry, Newton, Paulding, Rockdale, Spalding and Walton Counties in Georgia. On June 23, 2011, EPA published a final rulemaking making a determination of attainment to suspend the requirements for the Atlanta Area to submit an attainment demonstration and associated reasonably available control measures (RACM), a reasonable further progress (RFP) plan, contingency measures, and other planning State Implementation Plan (SIP) revisions related to attainment of the 1997 8-hour ozone NAAQS so long as the Area continues to attain the 1997 8-hour ozone NAAQS. *See* 76 FR 36873. Today's proposed action merely makes a determination that the Atlanta Area has attained the 1997 8-hour ozone NAAQS by its applicable attainment date. This action is not a re-proposal of the attainment determination to suspend the requirements for the Atlanta Area to submit an attainment demonstration and associated RACM, a RFP plan, contingency measures, and other planning SIP revisions related to attainment of the standard. More information regarding the 1997 8-hour ozone NAAQS and the Area's attainment of that NAAQS is available at 76 FR 36873 (June 23, 2011).

## **II. What is the Background for This Action?**

As a nonattainment area for the 1997 8-hour ozone NAAQS, the Atlanta Area had an applicable attainment date of June 15, 2011 (based on 2008 – 2010 monitoring data). Pursuant

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<sup>1</sup> Effective June 15, 2004, EPA designated the Atlanta Area as a marginal area under the 1997 8-hour ozone NAAQS. Subsequently, EPA took action to reclassify the area to moderate for the 1997 8-hour ozone NAAQS. Moderate areas for the 1997 8-hour ozone NAAQS had an applicable attainment date of June 15, 2010, unless the Area qualified for an extension. On November 30, 2010, EPA took final action to extend the applicable attainment date for the Atlanta Area to June 15, 2011. *See* 75 FR 73969 for more information.

to section 179(c) of the CAA, EPA is required to make a determination on whether the Area attained the standard by its applicable attainment date. Specifically, section 179(c)(1) of the CAA reads as follows: “As expeditiously as practicable after the applicable attainment date for any nonattainment area, but not later than 6 months after such date, the Administrator shall determine, based on the area’s air quality as of the attainment date, whether the area attained the standard by that date.”

### **III. What is the Air Quality in the Atlanta Area for the 1997 8-Hour Ozone NAAQS for the 2008-2010 Monitoring Period?**

Under EPA’s regulations at 40 CFR 50.10, the 1997 8-hour ozone NAAQS is met when the 3-year average of the annual fourth highest daily maximum 8-hour average ambient air quality ozone concentrations, as determined in accordance with 40 CFR part 50, Appendix I, is less than or equal to 0.08 parts per million (ppm) (*i.e.*, 0.084 ppm when rounding is considered) in the subject area.

EPA reviewed the ambient air monitoring data for the Atlanta Area in accordance with the provisions of 40 CFR part 50, Appendix I. All data considered have been quality-assured, certified, and recorded in EPA’s Air Quality System database. This review addresses air quality data collected in the 3-year period from 2008 – 2010. The 3-year period from 2008 – 2010 is the period EPA must consider for areas that had an applicable attainment date of June 15, 2011.

<b>Table 1.</b> <b>Design Values for Counties in the Atlanta, Georgia Nonattainment Area</b> <b>for the 1997 8-hour Ozone NAAQS</b>					
<b>Location</b>	<b>AQS site ID</b>	<b>2008 (ppm)</b>	<b>2009 (ppm)</b>	<b>2010 (ppm)</b>	<b>2008-2010 Design Value (ppm)</b>
Cobb County	GA NATIONAL GUARD MCCOLLUM PARKWAY (13-067-0003)	0.075	0.076	0.079	0.076
Coweta County	UNIVERSITY OF W. GA AT NEWNAN (13-077-0002)	0.075	0.065	0.065	0.068
Dawson County	DAWSONVILLE, GA FORESTRY COMMISSION (13-085-0001)	0.075	0.067	0.073	0.071
Dekalb County	2390-B Wildcat Road Decatur GA (13-089-0002)	0.087	0.077	0.075	0.079
Douglas County	DOUGLASVILLE W. STRICKLAND ST. (13-097-0004)	0.080	0.072	0.074	0.075
Fulton County	CONFEDERATE AVE. (13-121-0055)	0.084	0.077	0.080	0.080
Gwinnett County	GWINNETT TECH 1250 ATKINSON RD (13-135-0002)	0.079	0.073	0.072	0.074
Henry County	HENRY COUNTY EXTENSION OFFICE (13-151-0002)	0.086	0.074	0.078	0.079
Paulding County	YORKVILLE (13-223-0003)	0.072	0.067	0.071	0.070
Rockdale County	CONYERS MONASTERY 3780 GA HWY 212 (13-247-0001)	0.089	0.070	0.076	0.078

As shown above in Table 1, during the 2008 – 2010 design period, the Atlanta Area met the 1997 8-hour ozone NAAQS. The official annual design value for the Atlanta Area for the 2008 – 2010 period is 0.080 ppm. More detailed information on the monitoring data for the Atlanta Area during the 2008 – 2010 design period is provided in EPA’s June 23, 2011, final rulemaking to approve the clean data determination for the Atlanta Area for the 1997 8-hour ozone NAAQS. *See* 76 FR 36873.

#### **IV. What is the Proposed Action and What is the Effect of This Action?**

This action is a proposed determination that the Atlanta Area has attained the 1997 8-hour ozone NAAQS *by its applicable attainment date of June 15, 2011*, consistent with the CAA section 179(c)(1). Finalizing this proposed action would not constitute a redesignation of the Atlanta Area to attainment of 1997 8-hour ozone NAAQS under section 107(d)(3) of the CAA. Further, finalizing this proposed action does not involve approving a maintenance plan for the Atlanta Area as required under section 175A of the CAA, nor would it find that the Atlanta Area has met all other requirements for redesignation. Even if EPA finalizes today’s proposed action, the designation status of the Atlanta Area would remain nonattainment for the 1997 8-hour ozone NAAQS until such time as EPA determines that the Area meets the CAA requirements for redesignation to attainment and takes action to redesignate the Area.

#### **V. Statutory and Executive Order Reviews**

This action proposes to make a determination of attainment based on air quality, and would not impose additional requirements beyond those imposed by state law. For that reason,

this proposed action:

- Is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this proposed determination that the Atlanta Area attained the 1997 8-hour ozone NAAQS by its applicable attainment date does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIPs are not approved to apply in Indian country located in the states, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Date: December 8, 2011

A. Stanley Meiburg  
Acting Regional Administrator,  
Region 4.

[FR Doc. 2011-32178 Filed 12/14/2011 at 8:45 am; Publication Date: 12/15/2011]